IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE MR JUSTICE BILAL NAZKI

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WRIT PETITION No.7146 of 1995

Between:

Dasari Poli Naidu, S/o late Suryanarayana,
R/o Maruvada (V), Bondapalli (M),
Vizianagaram.

..... PETITIONER

AND

1. The District Collector,
   Vizianagaram.
2. The Mandal Revenue Officer,
   Bondapalli (M), Vizianagaram District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction more particularly a writ of mandamus declaring the action of the respondents in ordering eviction of the petitioner from an extent of Ac.2.34 Cents in S.No.30 of Maruvada (V), Bondapalli (M), in pursuance of Notice dt: 28-3-95 U/s. 6 of the Encroachment Act, as illegal, arbitrary null and void.

Counsel for the Petitioner: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

The Court made the following:

ORDER:

This is a writ petition challenging the Order of the Mandal Revenue Officer, Bondapalli Mandal, Vizianagaram District in terms of Section 6 of the A.P. Land Encroachment Act, 1905. The learned Counsel for the petitioner submits that the petitioner has been in possession of the land for a long time and acquired title over the property by adverse possession. He relied upon a judgment of the Supreme Court reported in **Government of A.P. v. Thummala Krishna Rao**.

Counter affidavit itself disclosed that the petitioner had already been dispossessed and the possession was taken over on 08.04.1995. Even in the writ petition itself, the petitioner had contended that the Government had announced a policy that if any person is in occupation of the Government land he is entitled for right of ownership by payment of 75% of the market value and the petitioner was prepared to pay the market value. That is a contradiction in terms of adverse possession. If the petitioner had perfected his title, he would not have offered 75% of the market value. On the other hand, there is nothing on record to show that the petitioner had any interest by way of title in the property since he has already been evicted. Therefore, I do not think any relief can be granted to the petitioner in this writ petition. Before passing of the impugned order he had been issued a notice and a reply was also given by him and the order of the second respondent cannot be faulted that he passed the order after a long time of show cause notice. However, if the petitioner has any interest by way of title in the property, he can take recourse to alternate remedies available to him in law.

The writ petition is accordingly dismissed. No costs.

Date : August 26, 2004. **BILAL NAZKI, J**

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector,
   Vizianagaram.
2. The Mandal Revenue Officer,
   Bondapalli Mandal, Vizianagaram District.

3. Two CCs to the G.P. for Revenue,

High Court of A.P., Hyderabad (O.U.T)

4. Two C.D. copies.

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